

SENATE BILL NO. 152

INTRODUCED BY D. MAHLUM

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE DISPOSITION OF EXCESS LANDS BY THE DEPARTMENT OF TRANSPORTATION; ELIMINATING THE PROVISION THAT AN ORIGINAL OWNER MAY REQUIRE THE DEPARTMENT TO SELL THE LAND INSTEAD OF EXCHANGING IT; REQUIRING THE DEPARTMENT TO OFFER TO SELL TO ADJACENT LANDOWNERS LAND PROPOSED FOR EXCHANGE; RAISING THE MINIMUM VALUE AT WHICH THE DEPARTMENT MUST OFFER THE LAND FOR SALE; ALLOWING THE DEPARTMENT TO SELL LAND TO ANOTHER GOVERNMENTAL ENTITY WITHOUT A PUBLIC AUCTION; RAISING THE MINIMUM VALUE AT WHICH A REAPPRAISAL MUST BE DONE TO DETERMINE FAIR MARKET VALUE; AND AMENDING SECTIONS 60-4-201, 60-4-202, AND 60-4-203, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 60-4-201, MCA, is amended to read:

"60-4-201. Exchange of interest in real property. ~~(1)~~(1) The department may determine that an interest in real property, however acquired by it, is no longer necessary to the laying out, altering, construction, improvement, or maintenance of a highway. ~~†~~ The department may then exchange the interest, either as entire or partial consideration, for any other interest in real property needed for highway purposes. The department may establish the manner and terms and conditions for the exchange.

~~(2) The owner from whom the interest was originally acquired by the state or his successor in interest has the right to require the department to offer the land for sale in the manner set forth in 60-4-202 and 60-4-203. The department shall notify the owner or successor in interest of its intention to exchange the interest. The owner shall make his demand for sale by registered or certified mail to the department within 10 days after receipt of notice from the department.~~

(2) PRIOR TO MAKING THE EXCHANGE, THE DEPARTMENT SHALL NOTIFY ALL LANDOWNERS WHOSE PROPERTY IS ADJACENT TO THE LAND PROPOSED FOR EXCHANGE. IF ANY OF THE LANDOWNERS ARE INTERESTED IN BUYING THE LAND PROPOSED FOR EXCHANGE, THE LANDOWNERS SHALL NOTIFY THE DEPARTMENT OF THEIR INTEREST BY REGISTERED LETTER

1 WITHIN 30 DAYS OF THE RECEIPT OF THE NOTICE OF EXCHANGE FROM THE DEPARTMENT. UPON RECEIPT OF A NOTICE OF
2 INTEREST, THE DEPARTMENT SHALL OFFER THE LAND PROPOSED FOR EXCHANGE FOR SALE AS PROVIDED IN 60-4-202 AND
3 60-4-203."

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5 **Section 2.** Section 60-4-202, MCA, is amended to read:

6 **"60-4-202. Sale of interest in real property.** (1) The department may sell an interest in real
7 property if the department determines that the property is not necessary to the laying out, altering,
8 construction, improvement, or maintenance of a highway. ~~If~~ Except as provided in subsection (2), if the
9 interest is reasonably of a value in excess of ~~\$2,500~~ \$10,000, sale must be made to the highest bidder
10 at public auction. The sale of an interest at auction must be conducted as provided in 77-2-321.

11 (2) (a) The department may sell an interest in real property without a public auction directly to:

12 (i) a federal, state, TRIBAL, or local government;

13 (ii) an agency of government;

14 (iii) a school district; or

15 (iv) a unit of the Montana university system.

16 (b) The department shall obtain fair market value for the property.

17 (3) BEFORE THE DEPARTMENT SELLS AN INTEREST IN REAL PROPERTY AS PROVIDED IN SUBSECTION (2), THE
18 DEPARTMENT SHALL NOTIFY ALL LANDOWNERS WHOSE PROPERTY IS ADJACENT TO THE LAND PROPOSED FOR SALE. IF ANY
19 OF THE LANDOWNERS ARE INTERESTED IN BUYING THE LAND PROPOSED FOR SALE, THE LANDOWNERS SHALL NOTIFY THE
20 DEPARTMENT OF THEIR INTEREST BY REGISTERED LETTER WITHIN 30 DAYS OF THE RECEIPT OF THE NOTICE OF SALE FROM
21 THE DEPARTMENT. UPON RECEIPT OF A NOTICE OF INTEREST, THE DEPARTMENT SHALL OFFER THE LAND FOR SALE AS
22 PROVIDED IN 60-4-203 AND THIS SECTION."

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24 **Section 3.** Section 60-4-203, MCA, is amended to read:

25 **"60-4-203. Conduct of sale.** (1) The department shall publish notice of the sale once a week for
26 4 successive weeks in a newspaper published in the county in which the interest is located. The notice
27 of sale must contain the information required by 77-2-322. Sale must be held in the county where the
28 property is located.

29 (2) Before the sale of an interest having a value in excess of ~~\$2,500~~ \$10,000, the department
30 must have the interest appraised at a price representing a fair market value. The appraised value must be

1 stated in the published notice.

2 (3) A sale of an interest may not be made unless it has been appraised within 3 months prior to
3 the date of the sale. A sale may not be made for less than 90% of the appraised value.

4 (4) Title to an interest may not pass from the state until the purchaser has paid the full amount
5 of the purchase price into the state treasury to the credit of the department."

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